



(Billing Code 5001-06-P)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 216

RIN 0750-AH67

Defense Federal Acquisition Regulation Supplement: Repeal of Case-by-Case Reporting (DFARS Case 2012-D020)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012, to remove a congressional notification requirement for single source task- or delivery-order contract awards over \$103 million.

DATES: Effective Date: [Insert date of publication in the FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Dustin Pitsch, telephone 571-372-6094.

SUPPLEMENTARY INFORMATION:

I. Background

This rule implements section 809(b) of the NDAA for FY 2012 (Pub. L. 112-81), which removes the requirement that the head of

the agency must notify the congressional defense committees within 30 days for each single source task- or delivery-order contract award over \$103 million.

II. Publication of this final rule for public comment is not required by statute

"Publication of proposed regulations", 41 U.S.C. 1707, is the statute that applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because the rule merely removes the requirement for the head of the agency to notify congressional defense committees for each single source task- or delivery-order contract award over \$103 million. These requirements affect only the internal operating procedures of the Government.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory

alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision as defined at FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 216

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR Part 216 is amended as follows:

PART 216—TYPES OF CONTRACTS

1. The authority citation for 48 CFR part 216 is revised to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

2. Section 216.504 is revised to read as follows:

216.504 Indefinite-quantity contracts.

(c) (1) (ii) (D) Limitation on single-award contracts. The authority to make the determination authorized in FAR 16.504(c) (1) (ii) (D) (1) shall not be delegated below the level of the senior procurement executive.

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